

**Supreme Court of the State of New York**  
**Appellate Division: Second Judicial Department**

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Submitted - November 13, 2007

STEPHEN G. CRANE, J.P.  
REINALDO E. RIVERA  
DANIEL D. ANGIOLILLO  
THOMAS A. DICKERSON, JJ.

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2007-02716

DECISION & ORDER

Aurea Del Rio, appellant, v Consolidated Edison, Inc.,  
et al., defendants, City of New York, respondent.

(Index No. 28536/98)

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Gary E. Rosenberg, P.C., Forest Hills, N.Y., for appellant.

Michael A. Cardozo, Corporation Counsel, New York, N.Y. (Leonard Koerner and  
Larry A. Sonnenshein of counsel), for respondent.

In an action to recover damages for personal injuries, the plaintiff appeals from a judgment of the Supreme Court, Kings County (Schneier, J.), dated January 22, 2007, which, upon a jury verdict on the issue of liability, is in favor of the defendant City of New York and against her, dismissing the complaint insofar as asserted against that defendant.

ORDERED that the judgment is affirmed, with costs.

Contrary to the plaintiff's contention, she was not entitled to a circumstantial evidence charge (*see Venditto v Doody*, 181 AD2d 729, 730; *Castagna v John E. Flynn, M.D., P.C.*, 127 AD2d 813, 814). The plaintiff failed to preserve her contention regarding the jury verdict sheet and, in any event, her contention is without merit (*see CPLR 5501[a][3]*; *Schlesinger v City of New York*, 30 AD3d 400, 401; *Perkins v Murphy*, 7 AD3d 500, 501; *Manginaro v County of Nassau*, 221 AD2d 603, 604). The plaintiff also failed to preserve for appellate review her contentions regarding counsel's summation (*see Friedman v Marcus*, 32 AD3d 820, 820; *Torrado v Lutheran Med. Ctr.*, 198 AD2d 346, 347). In any event, these contentions do not warrant reversal (*see Lauter v Village*

December 18, 2007

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*of Great Neck*, 231 AD2d 553, 555; *Tri-State Sol-Aire Corp. v United States Fid. & Guar. Co.*, 161 AD2d 757, 758-759; *cf. Padovani v Miller*, 44 AD3d 917).

The plaintiff's remaining contentions are without merit.

CRANE, J.P., RIVERA, ANGIOLILLO and DICKERSON, JJ., concur.

ENTER:

A handwritten signature in black ink, reading "James Edward Pelzer". The signature is written in a cursive, flowing style.

James Edward Pelzer  
Clerk of the Court